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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED 2008 APR 25 AM 10:58

UNITED STATES OF AMERICA,	)	Magistrate Docket No.
	)	
Plaintiff,	)	'08 MJ 1287 KNA
	)	COMPLAINT FOR VIOLATION OF:
v.	)	
	)	Title 8, U.S.C., Section 1326
Luis MARTINEZ-Delgado,	)	Deported Alien Found in the
	)	United States
	)	
Defendant	)	
	)	

The undersigned complainant, being duly sworn, states:

On or about **April 24, 2008** within the Southern District of California, defendant, **Luis MARTINEZ-Delgado,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 25th DAY OF **APRIL 2008.**

Jan M. Adler
UNITED STATES MAGISTRATE JUDGE

MLP

CONTINUATION OF COMPLAINT:
Luis MARTINEZ-Delgado

PROBABLE CAUSE STATEMENT

On April 24, 2008, Supervisory Border Patrol Agent Michael J. Martinez was performing line watch duties near Otay Mesa, California. At approximately 12:10 a.m., Agent Martinez responded to an seismic intrusion device in an area known as the "76 High Point." This area is approximately three miles east of the Otay Mesa, California Port of Entry and approximately one mile north of the United States/Mexico International Border.
Agent Martinez responded to the area. When he arrived he was notified by Border Patrol Agent R. Moore of group of individuals walking along a foot trail. Agent Moore was on a high point watching the group's movement with an infra-red thermal camera. With the assistance of Agent Moore, Agent Martinez was able to locate four individuals hiding. Agent Martinez approached the individuals and identified himself as a United States Border Patrol Agent. He then conducted an immigration inspection on all four, including one subject later identified as the defendant **Luis MARTINEZ-Delgado.** When Agent Martinez asked them individually, what their citizenship is, they each stated "Mexico." Agent Martinez then asked if they had the proper immigration documents that would allow them to enter or remain in the United States legally. All subjects, including the defendant, each stated "No." Agent Martinez placed all four subjects under arrest and had them transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **July 25, 2005** through **Nogales, Arizona.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.